
HOUSE BILL No. 1353

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-15.

Synopsis: Employee personal leave. Provides that certain employees of certain employers are entitled to take: (1) 40 hours of paid leave; and (2) 16 hours of unpaid leave; in a 12 month period.

Effective: July 1, 2009.

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January 13, 2009, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1353

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-2-15 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]:

4 **Chapter 15. Employee Personal Leave**

5 **Sec. 1.** As used in this chapter, "commissioner" refers to the
6 commissioner of labor appointed under IC 22-1-1-2.

7 **Sec. 2. (a)** As used in this chapter, "employee" means an
8 individual who:

9 (1) has been employed for at least six (6) months by an
10 employer from whom the employee has requested leave under
11 this chapter; and

12 (2) has worked an average number of hours per week equal to
13 at least seventy-five percent (75%) of a full-time equivalent
14 position as defined:

15 (A) in a bona fide agreement between the employer and the
16 employee;

17 (B) by the employer's personnel policies or practices; or



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1 (C) in a negotiated collective bargaining agreement or
 2 settlement agreement.

3 (b) The term does not include an independent contractor (as
 4 described in IC 22-3-6-1(b)(7) or IC 22-3-7-9(b)(5)).

5 Sec. 3. As used in this chapter, "employer" means:

6 (1) either:

7 (A) an individual;

8 (B) a partnership;

9 (C) an association;

10 (D) a limited liability company;

11 (E) a corporation;

12 (F) a business trust;

13 (G) a municipal corporation; or

14 (H) a nonprofit corporation exempt from federal income
 15 taxation under Section 501(c)(3) of the Internal Revenue
 16 Code;

17 that employs at least twenty (20) employees for each working
 18 day during each of twenty (20) or more calendar weeks in the
 19 current or preceding calendar year; or

20 (2) the state.

21 Sec. 4. An employee is entitled to take forty (40) hours of paid
 22 leave in any twelve (12) month period.

23 Sec. 5. A leave described in section 4 of this chapter is subject to
 24 the following conditions:

25 (1) The employee and the employer shall make a reasonable
 26 effort to schedule the leave at a mutually convenient time so
 27 as not to unduly disrupt the employer's operations.

28 (2) The employer may require an employee to submit a
 29 written request for the leave at least seven (7) days before the
 30 time desired for the leave if the need for the leave is
 31 reasonably foreseeable. If the need for the leave is not
 32 reasonably foreseeable, the employee shall give as much
 33 notice as is practicable.

34 (3) Leave may not be taken in increments of less than four (4)
 35 hours.

36 Sec. 6. An employee is entitled to take sixteen (16) hours of
 37 unpaid leave in any twelve (12) month period.

38 Sec. 7. A leave described in section 6 of this chapter is subject to
 39 the following conditions:

40 (1) The employee and the employer shall make a reasonable
 41 effort to schedule the leave at a mutually convenient time so
 42 as not to unduly disrupt the employer's operations.

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(2) The employer may require an employee to submit a written request for the leave at least seven (7) days before the time desired for the leave if the need for the leave is reasonably foreseeable. If the need for the leave is not reasonably foreseeable, the employee shall give as much notice as is practicable.

(3) Leave may not be taken in increments of:

(A) more than four (4) hours; and

(B) less than one (1) hour.

Sec. 8. A notice in a form approved by the commissioner setting forth the rights of employees under this chapter must be:

(1) conspicuously and continuously posted by the employer in the area in which employees are routinely employed; or

(2) disseminated to the employees in a manner reasonably intended to give notice.

Sec. 9. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 10. The commissioner shall enforce this chapter.

Sec. 11. (a) A person who is aggrieved by an alleged violation of this chapter may file a written complaint with the commissioner not later than thirty (30) days after the earlier of:

(1) the date that the person discovers the violation; or

(2) the date that the person should have discovered the violation.

(b) If a complaint is filed with the commissioner under subsection (a), the commissioner shall investigate the complaint and attempt to informally resolve the complaint.

(c) If a dispute is not informally resolved within one hundred twenty (120) days after the commissioner receives the complaint, the commissioner shall initiate a proceeding under IC 4-21.5-3-6 and adjudicate the complaint under IC 4-21.5-3. The commissioner shall join the complainant and each person who is alleged to have committed a violation under this chapter as parties to the proceeding. Unless the parties to the proceeding agree to a later date or the interests of justice require, the presiding officer in the proceeding shall schedule a hearing on the complaint to be held not later than one hundred eighty (180) days after the commissioner receives the complaint.

Sec. 12. The commissioner may issue any reasonable order to remedy a violation under this chapter.

Sec. 13. (a) This chapter does not prohibit an employee from taking a leave granted under any of the following:

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1 (1) Another law.

2 (2) A bona fide agreement between the employee and
3 employer or a representative of the employee and the
4 employer.

5 (3) A policy of the employer.

6 (b) This chapter does not prohibit an employer from providing
7 leave in addition to the requirements of this chapter.

8 Sec.14. This chapter does not:

9 (1) excuse noncompliance with a provision of a collective
10 bargaining agreement or another employment benefit
11 program or plan in effect on July 1, 2009, that is not in
12 substantial conflict with this chapter; or

13 (2) justify an employer in reducing employment benefits
14 provided by the employer that exceed the benefits required by
15 this chapter.

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